

HOUSE BILL No. 1107

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-10.

Synopsis: Elder affairs commission. Establishes the elder affairs commission to combine the responsibilities of the commission on aging and the community and home options to institutional care for the elderly and disabled (CHOICE) board. Repeals the law concerning the commission on aging and various provisions of the law concerning the CHOICE board. Makes conforming amendments.

Effective: July 1, 2007.

Frizzell

January 8, 2007, read first time and referred to Committee on Family, Children and Human Affairs.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1107

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 8. "Aged", for purposes of
3 IC 12-10-1 and ~~IC 12-10-2~~, **IC 12-10-11**, means an individual who is
4 at least sixty (60) years of age.
- 5 SECTION 2. IC 12-7-2-22, AS AMENDED BY P.L.145-2006,
6 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2007]: Sec. 22. "Board" means the following:
- 8 (1) For purposes of ~~IC 12-10-10 and IC 12-10-11~~, the community
9 and home options to institutional care for the elderly and disabled
10 board established by ~~IC 12-10-11-1~~.
- 11 (2) (1) For purposes of 12-12-7-5, the meaning set forth in
12 IC 12-12-7-5(a).
- 13 (3) (2) For purposes of IC 12-15-35, the meaning set forth in
14 IC 12-15-35-2.
- 15 SECTION 3. IC 12-7-2-34, AS AMENDED BY P.L.12-2006,
16 SECTION 1, AND AS AMENDED BY P.L.181-2006, SECTION 50,
17 IS CORRECTED AND AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2007]: Sec. 34. "Commission" means the following:

(1) For purposes of ~~IC 12-10-2~~, **IC 12-10-10 and IC 12-10-11**, the meaning set forth in ~~IC 12-10-2-1~~: **elder affairs commission established by IC 12-10-11-1.**

(2) For purposes of IC 12-11-7, the meaning set forth in IC 12-11-7-1.

(3) For purposes of IC 12-12-2, the meaning set forth in IC 12-12-2-1.

(4) For purposes of IC 12-13-14, the meaning set forth in IC 12-13-14-1.

~~(5) For purposes of IC 12-14-12, the meaning set forth in IC 12-14-12-1.~~

~~(6)~~ (5) For purposes of IC 12-21-6.5, the meaning set forth in IC 12-21-6.5-1.

~~(7)~~ (6) For purposes of IC 12-28-1, the meaning set forth in IC 12-28-1-3.

SECTION 4. IC 12-7-2-176 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 176. "Services" means the following:

(1) For purposes of IC 12-10-1, ~~and IC 12-10-2~~, those services designed to provide assistance to the aged and the aging, including the following:

(A) Nutritional programs.

(B) Facilities improvement.

(C) Transportation services.

(D) Senior volunteer programs.

(E) Supplementary health services.

(F) Programs for leisure time activities.

(G) Housing and employment counseling.

(H) Informational, referral, and counseling programs to aid the aging and aged in availing themselves of existing services intended to aid the aged in attaining and maintaining self-sufficiency, personal well-being, and maximum participation in community life.

(I) Other services required under regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.).

(2) For purposes of IC 12-28-1, the meaning set forth in IC 12-28-1-4.

SECTION 5. IC 12-10-10-4, AS AMENDED BY P.L.246-2005, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this chapter, "eligible individual"

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means an individual who:

(1) is a resident of Indiana;

(2) is:

(A) at least sixty (60) years of age; or

(B) disabled;

(3) has assets that do not exceed five hundred thousand dollars (\$500,000), as determined by the division; and

(4) qualifies under criteria developed by the ~~board~~ **commission** as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).

(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(1) Skilled nursing assistance.

(2) Supervised community and home care services, including skilled nursing supervision.

(3) Adaptive medical equipment and devices.

(4) Adaptive nonmedical equipment and devices.

SECTION 6. IC 12-10-10-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.5. (a) The division shall not adopt any rule governing the eligibility of an individual under this chapter that is more restrictive than the definition of eligible individual in section 4 of this chapter.

(b) The division and the ~~board~~ **commission** shall not adopt an eligibility criterion that is more restrictive than the definition of eligible individual described in section 4 of this chapter.

(c) Any:

(1) eligibility rule adopted by the division; or

(2) eligibility criterion adopted by the division or the ~~board~~ **commission**;

must be specific to the program established under this chapter and may not be defined by reference to a rule, guideline, or procedure for another program or service, for a service provided under a Medicaid waiver, or for institutional care.

SECTION 7. IC 12-10-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Before October 1 of each year, the division, in conjunction with the office of the secretary, shall prepare a report for review by the ~~board~~ **commission** and the general assembly. The report must include the following

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information regarding clients and services of the community and home options to institutional care for the elderly and disabled program and other long term care home and community based programs:

(1) The amount and source of all local, state, and federal dollars spent.

(2) The use of the community and home options to institutional care for the elderly and disabled program in supplementing the funding of services provided to clients through other programs.

(3) The number and types of participating providers.

(4) An examination of:

(A) demographic characteristics; and

(B) impairment and medical characteristics.

(5) A comparison of costs for all publicly funded long term care programs.

(6) Client care outcomes.

(7) A determination of the estimated number of applicants for services from the community and home options to institutional care for the elderly and disabled program who have:

(A) one (1) assessed activity of daily living that cannot be performed;

(B) two (2) assessed activities of daily living that cannot be performed; and

(C) three (3) or more assessed activities of daily living that cannot be performed;

and the estimated effect of the results under clauses (A), (B), and (C) on program funding, program savings, client access, client care outcomes, and comparative costs with other long term care programs.

(b) After receiving the report described in subsection (a), the ~~board~~ **commission** may do the following:

(1) Review and comment on the report.

(2) Solicit public comments and testimony on the report.

(3) Incorporate its own opinions into the report.

(c) The ~~board~~ **commission** shall submit the report in an electronic format under IC 5-14-6 along with any additions made under subsection (b) to the general assembly after November 15 and before December 31 each year.

(d) Funding for the report must come entirely from:

(1) funds already available for similar purposes;

(2) discretionary funds available to the division or the office of the secretary;

(3) reversion funds; and

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(4) private funds and grants.

SECTION 8. IC 12-10-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The ~~community and home options to institutional care for the elderly and disabled board elder affairs commission~~ is established.

SECTION 9. IC 12-10-11-2, AS AMENDED BY P.L.145-2006, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The ~~board commission~~ consists of the following ~~fifteen (15)~~ members:

(1) The director of the ~~division of family resources office of Medicaid policy and planning~~ or the director's designee.

(2) ~~The chairman of the Indiana state commission on aging or the chairman's designee.~~

~~(3) (2) Three (3) citizens individuals who are~~ at least sixty (60) years of age, nominated by ~~two (2) or more organizations an organization~~ that:

(A) ~~represent~~ **represents** senior citizens; and

(B) ~~have~~ **has** statewide membership.

(3) One (1) individual who is less than sixty (60) years of age, nominated by an organization that:

(A) represents senior citizens; and

(B) has statewide membership.

(4) One (1) ~~citizen less than sixty (60) years of age individual~~ nominated by ~~one (1) or more organizations an organization~~ that:

(A) ~~represent~~ **represents** individuals with disabilities; and

(B) ~~have~~ **has** statewide membership.

(5) One (1) ~~citizen less than sixty (60) years of age individual~~ nominated by ~~one (1) or more organizations an organization~~ that:

(A) ~~represent~~ **represents** individuals with mental illness; and

(B) ~~have~~ **has** statewide membership.

~~(6) One (1) provider~~ **Two (2) providers who provide community and home care services, at least one (1) of whom provides services under IC 12-10-10.**

(7) One (1) licensed physician, nurse, or nurse practitioner who specializes ~~either in the field of gerontology. or in the field of disabilities.~~

~~(8) Two (2) home care services advocates or policy specialists~~ nominated by ~~two (2) or more:~~

~~(A) organizations;~~

~~(B) associations; or~~

~~(C) nongovernmental agencies;~~

~~that advocate on behalf of home care consumers; including an~~

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organization listed in subdivision ~~(3)~~ that represents **One (1) individual with expertise in housing for senior citizens or persons individuals** with disabilities.

(9) One (1) individual with expertise in transportation systems for senior citizens or individuals with disabilities.

~~(9)~~ **(10)** Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate with the advice of the minority leader of the senate.

~~(10)~~ **(11)** Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house of representatives with the advice of the minority leader of the house of representatives.

The members of the ~~board~~ **commission** listed in subdivisions ~~(9)~~ and ~~(10)~~ **and (11)** are nonvoting members. **Members of the commission must be Indiana residents, and each congressional district must be represented by at least one (1) member.**

(b) The members of the ~~board~~ **commission** designated by subsection ~~(a)(3)~~ **(a)(2)** through ~~(a)(8)~~ **(a)(9)** shall be appointed by the governor for terms of two (2) years. In case of a vacancy, the governor shall appoint an individual to serve for the remainder of the unexpired term.

~~(c) The division shall establish notice and selection procedures to notify the public of the board's nomination process described in this chapter. Information must be distributed through:~~

~~(1) the area agencies on aging; and~~

~~(2) all organizations; associations; and nongovernmental agencies that work with the division on home care issues and programs.~~

SECTION 10. IC 12-10-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Each member of the ~~board~~ **commission** who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the ~~board~~ **commission** who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 11. IC 12-10-11-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The ~~board~~
~~commission~~ shall meet at least ~~six (6)~~ **four (4)** times ~~a~~ per year.

(b) **A majority of the voting members of the commission constitutes a quorum. A quorum must be present for the commission to conduct official business.**

SECTION 12. IC 12-10-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. Each year the ~~board~~
~~commission~~ shall elect from ~~its~~ **the commission's** membership a ~~chairman~~ **chairperson** and vice ~~chairman~~ **chairperson**.

SECTION 13. IC 12-10-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The division shall ~~provide staff services for the board:~~ **commission.**

SECTION 14. IC 12-10-11-8, AS AMENDED BY P.L.137-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The ~~board~~ **commission** shall do the following:

(1) ~~Establish~~ **Support the** long term goals of the state for the provision of a continuum of care for the elderly and disabled based on the following:

(A) ~~Individual independence, dignity, and privacy:~~

(B) ~~Long term care services that are:~~

(i) ~~integrated, accessible, and responsible; and~~

(ii) ~~available in home and community settings:~~

(C) ~~(A) Individual choice in planning and managing long term care.~~

(D) ~~Access to an array of~~ **Increased public awareness of the full range of long term care services: options.**

(i) ~~for an individual to receive care that is appropriate for the individual's needs; and~~

(ii) ~~to enable a case manager to have cost effective alternatives available in the construction of care plans and the delivery of services:~~

(E) ~~Long term care services that include~~ **(C) Improved capacity for and access to home care; and** community based services, assisted living, congregate care, adult foster care, and institutional care.

(F) ~~Maintaining an individual's dignity and self-reliance to protect the fiscal interests of both taxpayers and the state:~~

(G) ~~Long term care services that are fiscally~~ **(D) Sound fiscal management.**

(E) Enhanced care integration.

(2) ~~Review~~ **Support the** state policies on community and home

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care services: in the development of a comprehensive plan to meet the needs of the aged.

(3) ~~Recommend~~ **Make recommendations to the division concerning** the adoption of rules under IC 4-22-2.

(4) ~~Recommend~~ **Make recommendations to the division concerning** legislative changes affecting community and home care services.

(5) ~~Recommend the coordination of methods of coordinating the board's commission's~~ activities with the activities of other boards, **commissions**, and state agencies concerned with community and home care services.

(6) ~~Evaluate cost effectiveness, quality, scope, and feasibility of a state administered system of community and home care services.~~

(7) Evaluate programs for financing services to those in need of a continuum of care.

(8) Evaluate state expenditures for community and home care services, taking into account efficiency, consumer choice, competition, and equal access to providers.

(9) ~~Develop policies that~~ (6) Support the participation of **consumers**, families, and volunteers in meeting the long term care needs of individuals.

~~(+0)~~ (7) Encourage the development of funding for a continuum of care from private resources, including insurance.

~~(+1)~~ ~~Develop a~~ (8) **Periodically review program components, including the:**

(A) cost of services basis; and a

(B) program of cost reimbursement for ~~those persons~~ **individuals who can are able to** pay all or a part of the cost of the services rendered;

The division shall use ~~this~~ cost of services basis and program of cost reimbursement **both of which include the client cost share formula and are used by the division** in administering IC 12-10-10. The cost of services basis and program of cost reimbursement must include a client cost share formula that:

(A) imposes no charges for an eligible individual whose income does not exceed one hundred fifty percent (~~150~~)% of the federal income poverty level; and

(B) does not impose charges for the total cost of services provided to an individual under the community and home options to institutional care for the elderly and disabled program unless the eligible individual's income exceeds three

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hundred fifty percent (350%) of the federal income poverty level.

The calculation of income for an eligible individual must include the deduction of the individual's medical expenses and the medical expenses of the individual's spouse and dependent children who reside in the eligible individual's household.

(12) Establish long term goals for the provision of guardianship services for adults.

(13) Coordinate activities and programs with the activities of other boards and state agencies concerning the provision of guardianship services.

(14) Recommend statutory changes affecting the guardianship of indigent adults.

(15) Review a proposed rule concerning home and community based services as required under section 9 of this chapter.

(9) Encourage the study of and discussion concerning the problems of the aged and aging.

(10) Produce an annual report summarizing the commission's goals, activities, outcomes, and recommendations.

(b) Each commission member shall:

(1) during each calendar quarter, attend at least three (3) local meetings concerning aging issues in the member's congressional district; and

(2) report to the commission concerning the meetings attended under subdivision (1).

SECTION 15. IC 12-10-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. (a) The commission shall establish three (3) standing subcommittees as follows:**

(1) A community and home options to institutional care for the elderly and disabled subcommittee.

(2) Two (2) additional subcommittees to be established by the commission each year for a one (1) year term.

(b) Subcommittees established under subsection (a) may include members of the commission and individuals who are not members of the commission. The chairperson of each subcommittee must be a member of the commission.

(c) Each subcommittee shall meet at least four (4) times per year and provide to the commission:

(1) recommendations; and

(2) a report of the subcommittee's activities, which must be included in the annual report produced under section 8(a)(10)

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1 of this chapter.

2 (d) The chairperson of the commission may establish ad hoc
3 committees as the chairperson determines necessary.

4 (e) A member of a subcommittee or an ad hoc committee
5 established under this section who is not a member of the
6 commission shall serve without compensation.

7 SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE
8 JULY 1, 2007]: IC 12-10-2; IC 12-10-11-6; IC 12-10-11-9.

9 SECTION 17. [EFFECTIVE JULY 1, 2007] **On July 1, 2007, any**
10 **assets or liabilities that belong to the commission on aging**
11 **established by IC 12-10-2-2, before its repeal by this act, or the**
12 **community and home options to institutional care for the elderly**
13 **and disabled board established by IC 12-10-11-1, before**
14 **amendment by this act, become assets or liabilities of the elder**
15 **affairs commission established by IC 12-10-11-1, as amended by**
16 **this act.**

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